

CITY OF SAN JOSÉ, CALIFORNIA

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SAN JOSÉ ELECTIONS COMMISSION Thomas Mertens, Chair Jang Badhesha Michael Smith Tony Ventura

SAN JOSÉ ELECTIONS COMMISSION MEETING MINUTES November 5, 2007

I CALL TO ORDER

The Members of the San José Elections Commission convened at 5:30 p.m. in Room W-242 of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

PRESENT: COMMISSIONERS de Funiak, Badhesha Smith, and Mertens

ABSENT: COMMISSIONERS Ventura

STAFF PRESENT: Chief Deputy City Attorney Norm Sato

Senior Deputy City Attorney Lisa Herrick

City Clerk Lee Price

II DISCUSSION ITEMS

(Chair Mertens changed the order of the agenda and heard Item B. first)

B. Direction to the Investigator regarding Lobbyist Ordinance Compliance

Chair Mertens stated that he believes there are discrepancies in the lobbyist reports filed in the Office of the City Clerk and on sign-in sheets at the Council Receptionist Desk. He suggested that the investigator conduct an investigation to compare sign-in sheets with Council Calendars and by asking Council Offices to confirm if they have met with lobbyists.

<u>Action:</u> Upon motion by Commissioner de Funiak, seconded by Commissioner Badhesha, and unanimously passed, the Commission directed Rivera and Associates to compare sign-in sheets with Council Calendars and review lobbyist reports on file in the Office of the City Clerk to ensure lobbyist are registered and are disclosing their clients.

- A.1 Review and consider response to Request for Qualifications (RFQs) for an Investigator
 - a. Rivera and Associates
 - a. Chair Mertens led brief discussion about Rivera and Associates' resources, ability to respond to complaints filed and working relationship with the Attorney/Evaluator (Hanson Bridgett Marcus Vlahos Rudy LLP). Commissioners Badhesha and deFuniak spoke in favor of awarding a new contract to Rivera and Associates.
- A.2 <u>Action:</u> Upon motion by Commissioner Smith, seconded by Commissioner Badhesha, and unanimously passed, the Commission authorized the City Attorney and City Clerk to execute a two-year agreement with Rivera and Associates not to exceed \$40,000.

Staff was directed to agendize for a future discussion the ability by the Elections Commission to initiate investigations (see Agenda/Minutes of November 26, 2007).

- C.1 Review and consider response to Request for Qualifications (RFQs) for an Elections Audit Consultant (City Attorney/City Clerk)
 - a. San José State University

Phil Trounstine from San José State University spoke on the RFQ he submitted. He stated that he will not have Brenden McCarthy to do the work as stated in the RFQ because Mr. McCarthy accepted a job offer with the City of Sunnyvale. Mr. Trounstine stated he would need an additional two weeks to find another graduate student. Commission questions followed. Concerns were expressed about the time needed to find a suitable replacement and for completing the audit.

Action: Upon motion by Commissioner de Funiak, seconded by Commissioner Smith, the Commission formed a subcommittee (Smith/Badhesha) to meet with Mr. Trounstine to discuss the issues come back to the Commission in two weeks with a recommendation about how to proceed. Vote: 3-1-0, with Commissioner de Funiak dissenting.

C.2 Selection of an Elections Audit Consultant - *Deferred to November 25, 2007.*

- D.1 Review and consider response for Request for Qualifications (RFQs) for Investigator/Evaulator
 - b. Hanson Bridgett Marcus Vlahos Rudy LLP
 - c. Sweeney and Greene LLP

Joan Cassman, Stephen Miller and Mike Moye of Hanson Bridgett Marcus Vlahos Rudy LLP spoke in support of their proposal and continuation of services. Commission questions and comments followed.

Jim Sweeney, Senior Partner of Sweeney and Greene, LLP, presented an overview of his firm's qualifications and responded to questions.

Discussion ensued regarding the possibility of having two evaluators on contract to work with the Commission. Chief Deputy City Attorney advised that a revised RFQ would be required in that case. Chair Mertens suggested that a subcommittee be formed to evaluate the RFQs and discuss this option.

<u>Action:</u> Upon motion by Commissioner de Funiak, seconded by Commissioner Badhesha, and unanimously passed, the Commissioner selected a subcommittee (de Funiak/Ventura) to look at the issue of hiring an evaluator and to report back to the Commission at the earliest possible time with a recommendation to appoint one evaluator or to go out with a new RFQ.

The Clerk was directed to provide Commissioner Ventura with a copy of the audio recording of the interviews.

D.2 Selection of an Investigator/Evaluator - *Deferred to November 25, 2007.*

V PUBLIC COMM	ЛENT
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There were none.

VI ADJOURNMENT

The meeting adjourned at 8:00 p.m.

THOMAS M. (TOM) MERTENS, CHAIR

ATTEST: